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MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,687,506 : DECISION ON REQUEST
Taunton, et al. : FOR
Issue Date: March 30, 2010 : RECONSIDERATION OF
Application No. 10/552,847 : PATENT TERM ADJUSTMENT
Filed: August 9, 2006 : and
Atty Docket No.018062-006210US: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 15, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred sixty-five (865) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred and sixty-one (561) days is **GRANTED to the extent indicated herein.**

Patentees dispute the reductions of 78 days and 1 day to the patent term adjustment pursuant to 37 CFR 1.704(c)(10) for the filing of amendments under 37 CFR 1.132 on January 11, 2010, and January 12, 2010. Patentees' argument has been considered, but is unpersuasive to the extent indicated below.

A review of the file history reveals that an amendment under 37 CFR 1.312 was filed on January 11, 2010, to which a response was mailed by the Office on February 2, 2010. The ensuing reduction to the patent term adjustment is 23 days. An amendment under 37 CFR 1.312 was also filed on January 12, 2010, to which a response was mailed by the Office on February 23, 2010. The ensuing reduction to the patent term adjustment is 43 days. It is noted that the period of reduction overlap each other by 21

days between the period of January 12, 2010, and February 2, 2010. Only the entry of non-overlapping periods of reduction is warranted. Accordingly, a period of reduction of 45 days is warranted. The period of reduction of 78 days and 1 day is being removed and the period of 45 days of reduction is being entered.

No consideration will be given to patentees' assertion that the period of adjustment under 37 CFR 1.703(a)(1) is 508 days. Further to this point, PALM records indicate that the issue fee payment was received in the Office on February 1, 2010. No application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended February 1, 2010. Accordingly, relative to patentees' assertion of adjustments to the patent term entered prior to the mailing of the notice of allowance, it is appropriate to dismiss these arguments as untimely filed under § 1.705(b).

Accordingly, the patent term adjustment is 561 days (206 days of A delay + 535 days of B delay - 0 days of overlap - 180 days of applicant delay).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and sixty-one (561) days**.

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Telephone inquiries specific to this matter should be directed
to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,687,506 B2

DATED : Mar. 30, 2010

INVENTOR(S) : Tauton et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (527) days

Delete the phrase "by 527 days" and insert -- by 561 days--